

March 11, 1992

Mr. Keith L. Hansen, Manager  
Property and Water Resources  
Kennecott Utah Copper  
PO Box 525  
Bingham Canyon, UT 84006-0525

RE: Proposed Distribution Plan for Utah Lake Drainage

Dear Mr. Hansen:

We appreciate the comments which you submitted on behalf of Kennecott Utah Copper concerning the State Engineer's proposed distribution plan for the Utah Lake drainage basin. We realize the interest which your company holds in water rights within the basin; and let me assure you it is our intent to protect all water rights. Following is our response to your comments:

1. Water Right Number 59-3518 appears to be a primary direct flow right from the Jordan River and as such is not entitled to store water in Utah Lake. Undoubtedly, if the primary direct flow rights on the Jordan River were not fully satisfied, they could require that bypasses or releases be made from Utah Lake to satisfy their needs. This water right and the corresponding footnote contained in the table listing storage rights in the Utah Lake drainage basin have been deleted.
2. With regards to Water Right Numbers 59-23 and 59-30, we

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believe that we have taken this into consideration in formulating the proposed distribution plan. These rights are not included in Table 1 because in our opinion these water rights do not include storage in Utah Lake. The source of supply for both water rights is the Jordan River, and we agree that under their respective priorities these rights could call for water from upstream sources, including Utah Lake.

3. In the proposed plan and in the public meetings we have indicated that if the primary direct flow rights on the Jordan River are not satisfied then they can call on the waters to be passed through Utah Lake to satisfy their needs (see paragraph 5.2.2). The majority of these water rights have the earliest priority within the system, and thus under Utah water law, their rights must be satisfied in whole before subsequent priority rights can divert water.
4. Your comment and suggestion contained in paragraph 4 is a good point and is perhaps the best approach to take in implementing the proposed plan. We are concerned, as you are, that the water users do not fully understand all aspects of the proposed plan as well as we would like.

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It is our intent to work with water users to ensure that they have the opportunity to understand all aspects of the proposed plan. As we proceed with this effort we will probably do so on an interim basis as you suggested to allow the water users the time to become more familiar with the various provisions of the proposed plan and it would also allow us to correct any problems which develop.

5. In all of our written documents and in the public meetings we have stressed over and over again that this is a water distribution proposal and is **NOT** an adjudication of any water rights in the basin. Also, this is **NOT** a proceeding under either the Utah Administrative Procedures Act or Ruling-Making Act. Based upon your suggestion we will try and emphasis this fact even more in our future documents.

Again, we thank you for your time and effort in providing us with your comments. We will keep you apprised of any future developments concerning this matter.

Sincerely,

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Robert L. Morgan, P.E.  
State Engineer

RLM/wk

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